someone else. He did not therefore make a finding of fact as to the date when the offending labels were made.

I think a new trial must be ordered.

*New trial ordered.*

Solicitors for the appellant: *Sisson & Delay.*

Solicitors for the respondent: *Laycock & Ong.*

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## INDO-AUSTRALIAN TRADING CO. LTD. v. PNG LIM CHUA.

[A. C. J. (Murray-Aynsley, C.J.) June 22, 1954]

[Singapore — District Court Appeal No. 13 of 1954]

*Landlord and tenant — Control of Rent Ordinance, 1953, s. 15(1)(i) — Claim for possession — Meaning of "temporary character" as applied to buildings.*

The word "temporary" as applied to buildings has no precise meaning. Usually it refers to the purposes for which a building is erected. The expression "temporary character" referred to in s. 15(1)(i) is very much a question of degree. The fact that the building in question has lasted 27 years and is still inhabited is evidence that the building is not of "temporary character."

DISTRICT COURT APPEAL.

*L. A. J. Smith* for the appellants.

*Ong Swee Keng* for the respondent.

*Cur. Adv. Vult.*

**Murray-Aynsley, C.J.:** — This appeal raises the question of the meaning of the word "temporary" in para. (i) of section 15(1) of the Control of Rent Ordinance (No. 22 of 1953). The learned District Judge has found as a fact that the buildings in question were not of a "temporary character". The word "temporary" as applied to buildings has no precise meaning. Usually it refers to the purpose for which a building is erected, e.g. buildings erected for an exhibition. Here we have to consider the expression "temporary character". It is very much a question of degree; no building lasts for ever unless continually repaired. All buildings soon become uneconomic as we know from reading appeals for the preservation of cathedrals and other historic buildings.

There is evidence that the buildings in question had lasted up to 27 years and were still inhabited. I cannot, in the circumstances, say that the learned District Judge had no evidence to support his finding.

It was suggested at the hearing that the learned District Judge might have ordered possession as against the respondent of certain premises which had been sub-let. The point was not taken in the Court below nor until counsel for the appellants applied to amend at the hearing was it mentioned in the memorandum of appeal. I do not think that I ought to consider it now. I am doubtful in any event whether the English cases would apply here.

The appeal must be dismissed with costs.

*Appeal dismissed.*

Solicitors for the appellants: *Donaldson & Burkinshaw.*

Solicitors for the defendant: *L. Rayner & Co.*

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## LEE GEE CHONG v. LOKE'S MEDICAL HALL LTD.

[O. C. J. (Murray-Aynsley, C.J.) June 22, 1954]

[Singapore — Originating Motion No. 11 of 1954]

*Landlord and tenant — Control of Rent Ordinance, 1953, s. 9(1)(b) — Construction of — Meaning of "just and proper" — Where tenants consent given.*

In this Rent Board Application the tenant had consented to an increase of rent asked for by the landlord by reason of s. 7(1)(e) and s. 9(1)(b) of the Control of Rent Ordinance 1953. The Board allowed the increase under s. 7(1)(e) but refused to sanction the increase under s. 9(1)(b) on the ground that there was nothing special in the facts of this case to justify a departure from the principles set out by Taylor J. in **In re Application by Laycock & Ong.**[1]

**Held:** the whole object of s. 9(1)(b) is to give discretion to the Board to fix rents at a figure (subject to the proviso) which seems to them just and proper apart altogether from the question of what is the standard rent. Where a rent has been agreed between people particularly business people, as the result of free bargain, the fact that they have so agreed is relevant in deciding what is just and proper.

*Case referred to:—*

(1) *In re Application by Laycock & Ong* (1954) M.L.J. 41.

APPLICATION.

*S. H. D. Elias* for the plaintiff.

*Omar bin Salleh* for the defendant.

*Cur. Adv. Vult.*

**Murray-Aynsley, C.J.:** — These are proceedings under section 13(1) of Ordinance No. 22 of 1953. The only ground on which the Court can interfere is that the decision of the Board is wrong in law. This Court is not a Court of Appeal so far as the Rent Board is concerned.

The proceedings were taken before the Board under section 9(1)(b). By that part of the Ordinance the Board has power, subject to a proviso, to fix rent at such figure as "to the Board may seem just and proper." Unless the Board gives reasons bad in law when it fixes the rent of premises the Court has no

power to interfere. In the present case the Board refused to exercise its powers under section 9(1)(b). If they had been content to let the matter remain there the Court would have no power to do anything about it. The Board however proceeded to give reasons. They seem to have been under the impression that they were prevented from increasing the Rent under section 9(1)(b) by reason of what was said by Taylor J. in Originating Motion No. 57 of 1953[1].

The report does not show what the Court had to decide in that case. An examination of the record shows that the only point of law raised in that case was that there having been an increase of rent on other grounds the Court could not make an increase under section 9(1)(b). The motion proceeded to ask for review on grounds of fact, namely, that there was "no good or sufficient evidence" to justify the finding of the Board. That was not a ground on which the Court could interfere in any case. In his judgment the learned Judge does not seem to have dealt with the question of law raised in the motion, but he proceeded to deal with the application of the proviso to section 9(1)(b) which does not seem to have been in question, and then to have given his views on the way in which the Board should exercise its discretion under this part of the Ordinance. These views seem to be based on the ground that "the manifest object (of the Ordinance) is to stabilize rents of pre-war buildings at standard plus the specifically authorised additions where those apply". I cannot agree with this. The whole object of section 9(1)(b) is to give discretion to the Board to fix rents at a figure (subject to the proviso) which seems to them just and proper apart altogether from the question of what is the standard rent.

The words of the Ordinance are "just and proper". I do not think there is anything in the Ordinance to give those words any artificial or restricted meaning.

Some question arose as to the effect of consent of the tenant to the increase applied for. Of course, if the Board had thought that they were obliged to approve of any increase applied for where the tenant had assented, they would have been wrong in law. I do not think that they ever thought such a thing. Where a figure has been agreed between people, particularly business people, as the result of free bargain, I do not think that the fact that they have so agreed is irrelevant in deciding what is just and proper.

The matter is referred back to the Board to fix the rent at a figure which to the Board shall seem just and proper or to refuse to make any order, in its discretion.

*Order accordingly.*

Solicitors for the plaintiff: *Elias Bros.*
Solicitor for the defendant: *M. Ismail.*

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## JAGIR SINGH & ANOR. v. TAN CHOK HOW

[O. C. J. (Storr, J.) April 17, 1954]
[J. B. — Civil Suit No. 46 of 1953]

*Bills of Sale Enactment, ss. 3 and 4 — Whether Court will go behind documents to construe exact nature of documents — Evidence Ordinance ss. 65, 66 and 92.*

This was claim on a Bill of Sale relating to premises at Pontian, Johore. It was alleged on behalf of the defence that the Bill of Sale formed part of a loan transaction and was given by way of security and that as it was not registered it was invalid.

**Held:** (1) evidence was admissible to show the true nature of the transaction; (2) on the facts of the case the Bill of Sale was given by way of security and as it was not registered in accordance with s. 3 of the Bill of Sale Enactment it was invalid.

*Cases referred to :—*

(1) *Wok binte Hussein v. Harchand Singh* (1953) M.L.J. 176.

(2) *Koh Sek Lim v. Marriott* (1941) M.L.J. 214.

CIVIL SUIT.

*John Pillai* for the plaintiffs.

*A. N. Mitra* for the defendant.

*Cur. Adv. Vult.*

**Storr, J.:** — This was a case in which the plaintiffs claimed by virtue of a Bill of Sale dated 11th May, 1952, the possession of premises Nos: 194 and 196 Jalan Bakek, Pontian, Johore, and for an account from the defendant for rents collected by him from 1st June, 1952, to 30th September, 1953, and to damages for wrongfully withholding possession.

The defendant in his defence stated that the Bill of Sale really formed part of another transaction in which he had received a loan and that there was an Agreement of Loan signed at the same time as the Bill of Sale by which he could repay the consideration in the Bill of Sale, i.e. $5,850, by three monthly instalments of $1,950 and that the Bill of Sale was given by way of security, and being unregistered was invalid. The defendant stated in evidence that he approached the first plaintiff for a loan of $4,000 at the beginning of April, 1952, but that after negotiation the first plaintiff agreed to lend him $3,000 upon his giving him a Bill of Sale for the houses Nos. 194 and